

**TESTIMONY - NIGC HEARING**  
**September 19, 2006**  
**Washington DC**

Presented By:

**Sharon M. Reese, Deputy Director**  
**Washington State Gambling Commission**

Chairman Hogan, Associate Commissioner Choney, Commission Staff,  
Honored Tribal and State Representatives, Ladies and Gentlemen:

Thank you for the opportunity to testify on behalf of the state of Washington regarding proposed rules for Class II electronic devices. My name is Sharon Reese, I am the Deputy Director of the Washington State Gambling Commission (WSGC).

The WSGC has been the negotiator on behalf of the Governor for Class III compacts with tribal governments in the state of Washington for the past fifteen years. Twenty-nine, unique, federally recognized Tribes are within Washington boundaries and there are twenty-seven compacts with twenty-four operations open for business. Recent counts indicate 16,281 total Class III machines and 1,093 Class II machines.

Our interest in being here today is to provide a state perspective regarding rules for Class II and III machine gaming and our thoughts regarding the challenges facing us all in the coming months.

We are confident it was not the intent of the drafters of IGRA, or the current wish of the NIGC, in the promulgation of rules, to allow misrepresentation of games or submit to language distortions that effectively blur the distinctions between Class II and III machines. To do so precludes effective tribal, state, and federal regulation and subsequently undermines public confidence which can be damaging to business.

The Commission must continue to show that it is willing to enforce those provisions provided by IGRA with rules that reinforce a bright-line standard for both regulatory staff and tribal business leaders in differentiating between Class II and III devices. Those machines not meeting the specific

requirements under IGRA's definition and the Commissions clarifying rules should be required to be removed or request to be negotiated under the terms of a Class III compact. IGRA provided clear recognition of both the tribes' and states' rights to negotiate these higher risk and more profitable types of activities.

No-one disputes that the income from tribal gaming has provided some phenomenal programs and improvements in Indian Country. In Washington, there is tremendous pride in the employment, educational, health, social programs and much more that Tribal governments have prioritized with the funds from gaming enterprises. Local communities in the surrounding areas have also flourished and benefited from additional employment, associated money circle of spending.

The NIGC rules separating and identifying Class II from Class III machines are something that the states have a strong interest in. It has been a concern in our state that even though we all know these rules were coming, it appears that purchases of "gray area" machines continued even when the draft regs. were already being prepared to be posted. Some enterprises may have been premature and now they must potentially re-evaluate their economic plans. But, there is still a very positive future for tribal gaming with appropriate NIGC rules, oversight and TGA regulation in Class II. Over time adjustments will continue to be made to accommodate changes in the law, technology, the industry and approaches to regulation. But for now, we are at this point in time with this set of circumstances, many of us doing the best we can in our own environment to maintain integrity and confidence.

The WSGC has been a nationally respected gambling regulatory agency since 1974 and worked closely with colleagues at the NIGC during its early development and has observed its growth over recent years. A regulator's role, however difficult, is to provide simple clarity to their administrative regulations in support of the authorizing law.

To summarize:

- We believe that strong regulation and control, accompanied by fairness and consistency in the implementation of rules and regulations is critical to the success of gambling regulatory agencies.

- o These rules make some progress, but do not fully support IGRA's guiding principles in strictly defining the Classes of gaming on Indian lands. They may not have gone far enough and they lack the simplicity needed for effective regulation. The NIGC may find itself spending a great deal of time interpreting its regulations as a result.
- o The Commission may have significant difficulty fully enforcing these provisions as proposed and needs appropriate resource staffing and budget support to be effective and engender confidence in this complex environment.

In Washington State the Tribal Gaming Agencies work diligently to maintain an independent regulatory oversight of gambling activities. Our government to government relationships continue to improve over the years of working together, sharing common goals in the Class III environment through our tribal-state compacts.

Without agencies to make the tough and sometimes unpopular decisions, there is much more risk to the industry as a whole associated with those who take advantage of unclear regulation, lack of adequate or knowledgeable enforcement or outright illegal activities. Working together the business enterprise and the regulator may not always see eye to eye, but there are some basic values, I'm happy to say, most of us aren't compromising on.

On behalf of our Commissioners at the Washington State Gambling Commission, Director Day and our staff, thank you for the opportunity to be here. As regulators, whether you are tribal, state or federal we can all appreciate that there are inherent difficulties in maintaining independence and a balance between public, private and government interests in the area of gambling.